



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION III
1650 Arch Street
Philadelphia, Pennsylvania 19103-2029

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September 30, 2003

Via Hand Delivery


Ms. Lydia Guy
Regional Hearing Clerk
US EPA Region III
1650 Arch St.
Philadelphia, PA 19103-2029

RE: In the Matter of Sunbeam Products, Inc.
Docket No. SDWA-03-2003-0301

Dear Ms. Guy:

Enclosed for filing please find the original Emergency Administrative Order on Consent in the above action, which was signed today by EPA and Sunbeam Products, Inc.

Sincerely,


Lori G. Kier

Enclosure

cc: Kenneth J. Warren, Esq.
Ron Gahagan, Esq.

AR200001

bc: Mary Lou Barton, Esq., PA DEP
Heather Gray Torres, Esq.
Joan A. Johnson, Esq.
Mitch Cron
Karen D. Johnson
Roger Reinhart

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THE UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION III
1650 Arch Street
Philadelphia, Pennsylvania 19103-2029

IN THE MATTER OF:

Sunbeam Products, Inc.
2381 Executive Center Dr
Boca Raton, FL 33431-7321

Respondent.

EMERGENCY ADMINISTRATIVE
ORDER
ON CONSENT

Proceeding Under Section 1431(a)(1)
of the Safe Drinking Water Act,
42 U.S.C. § 300i(a)(1)

Docket No. SDWA-03-2003-0301

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I. STATUTORY AUTHORITY

This Emergency Administrative Order on Consent ("ORDER") is issued under the authority vested in the Administrator of the United States Environmental Protection Agency ("EPA") by Section 1431(a)(1) of the Safe Drinking Water Act ("SDWA" or "Act"), 42 U.S.C. § 300i(a)(1), and delegated to the Regional Administrator by Delegation No. 9-17 (May 11, 1994), and redelegated to the Water Protection Division Director by Delegation RIII-110 9-17 (Dec. 12, 1994), and is issued for the purpose of protecting persons who use a public water system or an underground source of drinking water from potential conditions that may present an imminent and substantial endangerment to human health.

II. FINDINGS

1. At certain times relevant to this ORDER, Temrac Company, Inc. ("Temrac") through a corporate predecessor (Bally Engineered Structures, Inc.), owned and operated a manufacturing plant known as the Bally Engineered Structures ("BES") Plant located in the Borough of Bally, Pennsylvania. Sunbeam Products, Inc. ("Sunbeam" or "Respondent") is a corporate affiliate of Temrac but is not generally assuming Temrac's liabilities.

2. In 1987, EPA and BES, Inc. entered into a Consent Order pursuant to the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. §§ 9601 *et seq.* ("CERCLA"), for the performance of a remedial investigation and feasibility study ("RI/FS") at the Site, as hereinafter defined. In 1988, Allegheny International, Inc. sold substantially all of the assets of BES (other than the real property upon which the BES plant was located) including the BES manufacturing plant and the name BES. The corporate entity changed its name to Dagan, Inc., which was then merged into Temrac Company, Inc.

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3. The RI/FS, completed in 1989, determined that the BES Plant was a source of volatile organic compound ("VOC") contamination at the Site, as hereinafter defined.

4. Contamination from VOCs at the BES Plant has resulted in a ground water contamination plume present under a portion of the Borough of Bally, Pennsylvania. This ground water contamination plume is associated with the Bally Ground Water Contamination Superfund Site (hereinafter, "Site"), which is listed on the Superfund National Priorities List. See Map of Ground Water Contamination Plume, Attachment 1 hereto, which represents the current estimated extent of groundwater contamination associated with the Site. Attachment 1 is provided by Respondent, and EPA takes no responsibility for ensuring its accuracy.

5. The industrial solvent 1,1,1 trichloroethane ("TCA") was used at the BES Plant.

6. The TCA that was used at the BES Plant likely contained 1,4-dioxane as a solvent stabilizer.

7. The substance 1,4-dioxane is listed as Chemical Abstract Service No.123-91-1 and EPA concludes that it is a "contaminant" within the meaning of Section 1401(6) of the SDWA, 42 U.S.C. § 300(f)(6). However, no maximum contaminant level has been established for 1,4-dioxane in drinking water under the Safe Drinking Water Act, 42 U.S.C. § 300g-1.

8. The substance 1,4-dioxane has been classified as a probable human carcinogen by EPA. Animal laboratory studies have been performed which indicate that large doses of 1,4-dioxane may cause cancer in lab animals. This lab data has been extrapolated to humans by EPA, which has developed a carcinogen slope factor that results in the following conclusion: Consumption of drinking water over a 70-year period containing 3 parts per billion ("ppb") 1,4-dioxane presents an excess cancer risk of 1×10^{-6} , based on a risk assessment determination regarding the contaminant 1,4-dioxane. Consumption of drinking water over a 30-year period containing 6 ppb 1,4-dioxane presents an excess cancer risk of 1×10^{-6} , based on a risk assessment determination regarding the contaminant 1,4-dioxane.

9. During approximately the last 13 years, except for the current use of bottled drinking water, Bally Municipal Well #3 has been used as the sole source of drinking water for the Borough of Bally, as part of the Borough of Bally Public Water Supply (hereinafter, "Bally PWS").

10. Municipal Well #3 is located at an approximate depth of 300 feet in the Triassic limestone clast fanglomerate and Brunswick Formations and operates at approximately 260 gallons/minute of water for water supply and groundwater treatment purposes. The Triassic limestone clast fanglomerate and Brunswick Formations are "aquifers" and "underground sources of drinking water" within the meaning of 40 C.F.R. § 144.3.

11. A Superfund Record of Decision ("ROD") was issued by EPA on June 30, 1989 for the purpose of resolving ground water contamination at the Site. The ROD requires a number of activities, including *inter alia*, air stripping at Municipal Well #3 to clean up the ground water contaminated by the BES facility. (Municipal Well #3 is identified on Attachment 1.) The work has been performed as specified by the ROD, pursuant to a CERCLA Consent Decree among the United States, Temrac and Sunbeam-Oster Company, Inc., Docket No. 91-3043 (E.D. Pa. July 19, 1991) (hereinafter, "the Consent Decree" or "CD").

12. Since approximately 1989, the ground water quality from Municipal Well #3 has been monitored for contaminants identified in the ROD. Since approximately February 2003, the ground water quality from Municipal Well #3 has also been monitored for the contaminant 1,4-dioxane, as required by EPA due to increased detection capabilities. Although air-stripping and chlorination occur prior to human use of the water from Municipal Well #3, the contaminant 1,4-dioxane has been detected in the Bally PWS and at a residence serviced by the Bally PWS. Air-stripping has been shown not to be effective in removing 1,4-dioxane. (Monitoring results for samples collected to date are tabulated at Attachment 2 hereto).

13. The Borough of Bally PWS is a "public water system" ("PWS") within the meaning of Section 1401(4) of the SDWA, 42 U.S.C. § 300f(4).

14. Because the 1,4 dioxane ground water contamination at Bally is at a federal Superfund site, the Borough of Bally has requested EPA's assistance in addressing the 1,4-dioxane ground water contamination. The Commonwealth of Pennsylvania acknowledges that the federal authorities, specifically EPA, have the lead at the Site. As a result, the Commonwealth of Pennsylvania has deferred to the EPA's lead on cleanup matters at this Site.

15. Beginning in approximately March 2003, bottled drinking water has been voluntarily provided to users of the Bally PWS who request to receive such bottled drinking water.

16. Past usage of TCA that likely contained the contaminant 1,4-dioxane may cause or contribute to the present endangerment of the health of persons using public and private water supplies in the vicinity of the Site.

17. Respondent does not admit these Findings.

III. CONCLUSIONS

On the basis of the FINDINGS set forth above, and upon taking notice of the scientific data available, EPA CONCLUDES that:

18. For purposes of this ORDER, consumption of drinking water over a 70-year period containing 3 parts per billion ("ppb") or greater 1,4-dioxane may present an imminent and substantial endangerment to the health of persons.

19. The actions required by this ORDER are necessary to protect the health of persons in the vicinity of the Site, including but not limited to users of water contaminated by the Site who are not part of the distribution system (hereinafter, "Area of Interest").

20. The requirements for issuance of an order under Section 1431(a) of the Act, 42 U.S.C. § 300i(a), have been met. The state and local authorities have deferred to EPA's lead on cleanup matters at this Site.

21. Respondent does not admit these conclusions.

IV. ORDER

Based on the foregoing Findings and the administrative record supporting this Order, EPA ORDERS and Respondent, without admitting any finding of fact or conclusion of law herein, hereby agrees to take the following actions (collectively, "the Work") within the time periods specified herein, pursuant to Section 1431(a) of the SDWA, 42 U.S.C. § 300i(a):

22. Monitoring.

- A. On-going Monitoring. Continue monthly monitoring of finished water from the PWS to detect the presence of 1,4-dioxane. Such monitoring shall include the collection of water samples from the PWS following chlorination. For each such monitoring event, Respondent shall, within five (5) calendar days of receipt of laboratory data, submit such data to the addresses listed in paragraph 29 below. The monitoring activities under this Order will terminate upon the earliest of: (i) the modification of the CERCLA Consent Decree for the Site; (ii) termination in accordance with Section VI of this Order; or (iii) the completion of the remedy selected by EPA for 1,4-dioxane in drinking water following its review of the Focused Feasibility Study required by paragraph 23, *infra*.
- B. Monitoring Plan. Within 30 calendar days of the effective date of this ORDER, submit to EPA for review and approval a plan to monitor for the 1,4-dioxane in the Area of Interest. Among other things, the Monitoring Plan shall propose:

- i. Locations and depths for monitoring wells to be used for detecting any presence of 1,4-dioxane, including but not limited to ground water from Municipal Well #3;
 - ii. Sampling procedures for detecting a concentration of 1,4-dioxane as low as practicable, but in any event at least 3.0 ppb, unless Respondent provides evidence acceptable to EPA that such a quantitation limit is not reasonably achievable on a consistent basis;
 - iii. Laboratory procedures for analyzing for the presence of 1,4-dioxane. Laboratory analyses for 1,4-dioxane required herein shall be performed in compliance with the procedures described in Section VIII below ("Quality Assurance/Quality Control");
 - iv. An update to the Site Quality Assurance and Quality Control Plan ("QA/QC Plan") for the collection, transportation, analysis and reporting required by the Consent Decree, in compliance with the requirements of Section VIII *infra*. Attachment 3 hereto contains a copy of the QA/QC Plan Requirements contained in the CD. The update to the QA/QC Plan shall specify, in detail, the data quality objectives, the number, time and location of ground water or other samples to be taken, sample collection and transportation procedures, data analysis methods, and validation and reporting procedures; and
 - v. Sampling and analysis of private wells that are potential receptors of drinking water from the Area of Interest for the detection of a concentration of 1,4-dioxane as low as practicable, but in any event at least 3.0 ppb, unless Respondent provides evidence acceptable to EPA that such a quantitation limit is not reasonably achievable on a consistent basis;
- C. Respondent shall implement the EPA-approved Monitoring Plan in accordance with the schedule therein..

23. Focused Feasibility Study. Within 60 calendar days of the effective date of this ORDER, Respondent shall submit to EPA for review and approval a Work Plan for performance of a Focused Feasibility Study ("FFS"). The FFS shall be designed to identify comprehensive alternatives to reduce the 1,4-dioxane concentrations identified in the Bally Borough PWS to achieve one of the following alternatives: (i) 3.0 ppb; or (ii) if 3.0 ppb is not practicable and

feasible and reasonably achievable on a consistent basis, some other concentration approved by EPA in consultation with the Commonwealth of Pennsylvania, taking into consideration, among other things, cost and limitations on treatment technology to consistently and effectively achieve this concentration as applied in the field at this Site. EPA may evaluate the feasibility of this remediation goal in the FFS and include the results of such evaluation in an appropriate decision document, such as a ROD amendment. Within 180 days following EPA's notification to Respondent that the FFS Work Plan has been approved, Respondent shall complete the FFS and submit it to EPA for review and approval. The FFS shall comply with the requirements of 40 C.F.R. Part 300.430, and provide options for such reduction of 1,4-dioxane concentrations. The FFS shall include, at a minimum, a thorough exploration of the following options:

A. New Well Option

Installation and utilization of a new municipal well that meets the standards of the federal and state SDWA and their implementing regulations to provide a source of drinking water for the Borough of Bally that does not exhibit 1,4-dioxane concentrations in excess of 3.0 ppb.

B. Municipal Well Treatment Option

Treatment of 1,4-dioxane at Municipal Well #3 to achieve one of the following alternatives: (i) 3.0 ppb; or (ii) if 3.0 ppb is not practicable and feasible and reasonably achievable on a consistent basis, some other concentration approved by EPA in consultation with the Commonwealth of Pennsylvania, taking into consideration, among other things, cost and limitations on treatment technology to consistently and effectively achieve this concentration as applied in the field at this Site.

24. The FFS shall also take into consideration any new risk or health data that becomes available which alters the technical basis for the 1,4-dioxane drinking water standard herein.

25. Compliance with Permitting Requirements. In developing and performing the work required by the FFS Work Plan required by paragraph 23 herein, Respondent shall comply with all applicable and appropriate state, local and federal permitting requirements.

26. Provision of Bottled Drinking Water. Respondent shall provide potable bottled drinking water to all users of the Borough of Bally PWS who have requested such water as of the effective date of this ORDER. The bottled drinking water must comply with all requirements of the SDWA and shall contain less than 3.0 ppb 1,4-dioxane. Such provision of potable bottled drinking water shall continue in the manner of distribution in place as of the effective date of this ORDER, including but not limited to distribution to private residences, businesses and schools, and must comply with the procedures set forth on Attachment 4 hereto. Upon request for the

provision of potable bottled drinking water by any additional user of the Borough of Bally PWS, Respondent shall begin the distribution of such water within five (5) calendar days of receipt of such request at no cost to the users.

27. In the event any private wells that are potential receptors of drinking water from the Area of Interest are identified to have concentrations of 1,4-dioxane at 3 ppb or greater, Respondent shall begin the distribution of potable bottled drinking water within five (5) calendar days of receipt of a request for bottled drinking water by such private well owner(s). The bottled drinking water must comply with the procedures set forth on Attachment 4 hereto, and with all requirements of the SDWA. The bottled drinking water shall contain 1,4-dioxane of less than 3.0 ppb.

28. Progress Reports. Respondent shall submit monthly progress reports describing its activities in response to paragraphs 22, 23, 24, 25 and 26, *supra*, until the earlier of either when the activities contemplated therein are complete or when EPA provides written notice that the reports are no longer necessary.

29. Submissions to EPA.

A. Contact Information. Reports, data and any information required under this ORDER shall be sent to all of the following persons by regular mail or electronic mail:

i. Mitchell Cron

Regular Mail Address: Mail Code 3HW22
U.S. EPA Region III
1650 Arch Street
Philadelphia, PA 19103-2029

Electronic Mail Address: cron.mitch@epa.gov

ii. Roger Reinhart

Regular Mail Address: Mail Code 3WP32
U.S. EPA Region III
1650 Arch Street
Philadelphia, PA 19103-2029

Electronic Mail Address: reinhart.roger@epa.gov

iii. Asuquo Effiong

Regular Mail Address: Pennsylvania Department of
Environmental Protection
909 Elmerton Avenue
Harrisburg, PA 17110

Electronic Mail Address: aeffiong@state.pa.us

iv. Susan Warner

Regular Mail Address: Pennsylvania Department of
Environmental Protection
1005 Crossroads Blvd.
Reading, PA 19605

Electronic Mail Address: suwarner@state.pa.us

B. Incorporation of Submissions. All such documents, appendices, and attachments to this ORDER shall be deemed incorporated into, and made an enforceable part of, this ORDER. Upon approval by EPA, all deliverables, plans, reports, schedules, and other items required by or developed under this ORDER shall be deemed incorporated into and made an enforceable part of this ORDER. In the event of conflict between this ORDER and any document developed hereunder, the provisions of this ORDER shall control.

C. Certification. For each submission which contains factual statements related to the Work performed pursuant to this ORDER, Respondent shall include a certification that the information contained in such document or report is true, accurate, and not misleading. The certification must be signed by the president, secretary, treasurer, or vice president in charge of Respondent, or vice president in charge of a principal business function, or any other person who performs similar policy- or decision-making functions for the corporation. Such certification shall contain the following statement:

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision according to a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who

manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and/or imprisonment for knowing violations."

V. GENERAL PROVISIONS

30. This ORDER does not constitute a waiver, suspension or modification of the requirements of the SDWA and accompanying regulations. Issuance of this ORDER is not an election by EPA to forgo any civil or any criminal action otherwise authorized under the SDWA, the Clean Water Act or any other federal law. This ORDER constitutes final action of the Administrator.

31. Agreement by Respondent to enter into this Emergency Administrative Order on Consent constitutes Respondent's agreement not to contest any of the Findings or Conclusions contained herein, or underlying supporting information or documentation, in any action to interpret or enforce this ORDER. Respondent's agreement in this paragraph shall not apply in any other action.

32. Violation of any term of this ORDER, or failure or refusal to comply with this ORDER, may subject Respondent to an enforcement action by EPA for civil penalties of up to fifteen thousand dollars (\$15,000) for each day in which such violation occurs or failure to comply continues as provided by § 1431(b) of the SDWA, 42 U.S.C. § 300i(b). Respondent reserves any and all defenses.

33. Respondent agrees not to appeal this ORDER in any forum.

34. Respondent certifies by its signature hereon that it has the authority to enter into this ORDER and assume the obligations set forth herein.

VI. COMPLETION OF WORK

35. EPA may terminate this ORDER at any time.

36. This Order shall terminate upon implementation of the remedy selected by EPA for 1,4-dioxane in drinking water following its review of the FFS.

VII. ACCESS

37. To the extent Respondent owns, occupies, leases or controls the property in or adjacent to the Area of Interest, or property other than at Bally, to which access is required to properly carry out the terms of this ORDER, the Respondent shall grant access to EPA, the Commonwealth of Pennsylvania, and their agents and authorized representatives for purposes of implementing and monitoring work to be performed under this ORDER.

38. To the extent that access to, use or ownership of, or easements over property other than Bally is required for the proper and complete implementation of this ORDER, Respondent shall use best efforts to obtain site access agreements or other interests in the property, in writing, sufficient to allow implementation of this ORDER within forty-five (45) days after the ORDER's effective date. For purposes of this paragraph, "best efforts" include, but are not limited to, the payment of reasonable sums of money in consideration for access to any property.

39. Such written access agreements or other interests obtained pursuant to the preceding paragraphs shall provide EPA, the Commonwealth of Pennsylvania and their agents and other authorized representatives access to the Area of Interest or other such property at all times for purposes of implementing and monitoring work under this ORDER. Such written agreements shall specify that the Respondent is not EPA's representative or agent with respect to liability associated with the Site.

40. In the event that site access agreements or other interests sufficient for implementation and monitoring of work under this ORDER are not obtained within the time period specified above, Respondent shall notify EPA in writing within three (3) calendar days thereafter regarding the lack of such agreements and the efforts made by the Respondent to obtain them. In the event Respondent has made reasonable efforts but has not obtained access, EPA may use its legal authority to assist Respondent in obtaining such access. In the event Respondent has not made reasonable efforts, the lack of access shall not excuse or justify failure to perform any activity or to meet any deadline not requiring or directly dependent upon such access.

VIII. QUALITY ASSURANCE/QUALITY CONTROL

41. While conducting all sample collection and analysis activities required by this ORDER, Respondent shall implement quality assurance, quality control, and chain of custody procedures in accordance with: (1) "EPA Requirements for Quality Assurance Project Plans" (EPA QA/R-5) (March 2001); (2) "EPA NEIC Policies and Procedures Manual" (EPA 330/978-001-R) (Rev. 1991); (3) "EPA Region III Modifications to the National Functional Guidelines for

Inorganic Data Review (April 1993); (4) EPA Region III Modifications to the National Functional Guidelines for Organic Data Review (Sept. 1994); (5) "EPA Region III Innovative Approaches to Data Validation" (June 1995); (6) "Data Quality Objectives Process for Superfund" (EPA 540/R-93/071) (Sept. 1994); or subsequent amendments to such guidelines upon notification by EPA to Respondent of such amendment.

42. Prior to the commencement of any monitoring project under this ORDER, Respondent shall submit to EPA for approval a Quality Assurance Project Plan ("QAPP") for such monitoring that is consistent with the National Contingency Plan and the guidance documents cited above. Respondent shall ensure that all laboratories utilized by Respondent in implementing this ORDER shall analyze all samples pursuant to the QAPP for quality assurance monitoring. Respondent shall ensure that the laboratories it utilizes for the analysis of samples taken pursuant to this ORDER perform all analyses according to accepted EPA methods. Respondent shall implement the QAPP as approved by EPA.

43. Respondent shall submit to EPA the selected laboratory's/laboratories' Quality Assurance Program Plan and qualifications, which shall include at a minimum, current certifications, Performance Evaluation results, equipment lists and personnel resumes. Respondent shall ensure that all field methodologies utilized in collecting samples for analysis pursuant to this ORDER will be conducted in accordance with the procedures set forth in the QAPP approved by EPA. At the request of EPA, Respondent shall conduct one or more audits of the selected laboratory/laboratories to verify analytical capability and compliance with the QAPP. Auditors shall conduct lab audits during the time the laboratory/laboratories is/are analyzing samples collected pursuant to this ORDER. The lab audit shall be conducted according to procedures available from the EPA Office of Analytical Services and Quality Assurance. EPA reserves the right to perform its own audit of laboratory/laboratories utilized by Respondent, and Respondent agrees to work with such laboratory/laboratories to assist EPA in obtaining access.

44. Audit reports shall be submitted to the individuals specified in paragraph 29, *supra*, within fifteen (15) calendar days of the completion of the audit. Respondent shall report deficiencies, including all those which adversely impact data quality, reliability or accuracy, and take action to correct such deficiencies within twenty-four (24) hours of the time Respondent knew or should have known of the deficiency. If Respondent cannot comply with the requirement, it may petition EPA for additional time, up to a total of seven (7) calendar days. EPA, in consultation with the Commonwealth of Pennsylvania, will make, in its non-reviewable discretion, a determination as to whether to grant Respondent's petition, and approval of such a request by EPA shall not be unreasonably withheld.

IX. DISPUTE RESOLUTION

45. The dispute resolution procedures of this Section shall be the exclusive mechanism to resolve disputes arising under or with respect to this ORDER. However, the procedures set forth in this Section shall not apply to actions by EPA to enforce obligations of the Respondent pursuant to this ORDER that have not been disputed in accordance with this Section.

46. Respondent's conformance with the requirements of this ORDER will be determined by EPA. In the event that Respondent disagrees with an EPA determination, Respondent shall notify EPA in writing within five days of receipt of any EPA action, directive, or communication with which Respondent disagrees; otherwise, Respondent will be deemed to have agreed. Any such notice of dispute shall state with specificity the nature of the dispute and any information upon which Respondent is relying for its position. The parties shall then engage in informal negotiations for a period not to exceed twenty (20) calendar days. Such twenty-day period may be extended by EPA at its discretion, and Respondent may make such a request at any time.

47. If the parties cannot resolve their dispute within twenty (20) calendar days of EPA's receipt of Respondent's notice of dispute, EPA's Region III Water Protection Division Director, or his designee, shall resolve the dispute and provide a written determination to Respondent. The Respondent shall take whatever steps are necessary to comply with EPA's written determination within fourteen (14) days of receipt of the written determination, unless Respondent, through a corporate officer, files a petition with the EPA Region III Judicial Officer ("RJO") for resolution of the dispute within fourteen (14) days of receipt of the Water Protection Division Director's, or his designee's decision or within fifty (50) days of EPA's receipt of the Respondent's notice of dispute, whichever is later. The petition shall set out the nature of the dispute, any information upon which the Respondent is relying for its position, the relief requested and shall specifically refer to this paragraph of the ORDER. EPA will have twenty-one (21) calendar days to file a response to Respondent's petition. Respondent shall bear the burden of proof in any dispute resolution proceeding under this ORDER. Following receipt of EPA's response, the RJO, or her designee, shall issue a written decision resolving the dispute and provide it to the Respondent. Within fourteen (14) days of the Respondent's receipt of the RJO's decision, the Respondent shall take whatever steps are necessary to comply with the decision, unless it decides to appeal the RJO's decision to the appropriate court.

48. The invocation of formal dispute resolution procedures under this Section shall not extend, postpone or affect in any way any obligation of Respondent under this ORDER, unless it is subject to appeal or EPA so agrees, or the Region III Administrator so orders.

X. RESERVATION OF RIGHTS

49. Except as expressly provided in this Emergency Order on Consent, (1) EPA reserves all rights, claims, interests and defenses it may otherwise have, and (2) nothing herein shall prevent EPA from seeking legal or equitable relief to enforce the terms of this Consent Order, including the right to seek injunctive relief and/or the imposition of statutory penalties.

50. EPA expressly reserves its right to disapprove of the FFS conducted by Respondent and/or any other activity performed pursuant to this ORDER; to halt work being performed by Respondent pursuant to this Order if Respondent has not complied with an approved requirement of this Emergency Order on Consent, or at any time EPA deems necessary to protect public health, welfare or the environment and to perform such work; to request and require hereunder that Respondent correct and/or re-perform any and all work disapproved by EPA; and/or to request or require that Respondent perform response actions in addition to those required by this Emergency Order on Consent. Further, EPA reserves the right to undertake response action at any time EPA deems appropriate. In the event EPA requires Respondent, and Respondent declines, to correct and/or re-perform work that has been disapproved by EPA and/or to perform response actions in addition to those required by this Consent Order, EPA reserves the right to undertake such actions and seek reimbursement of the costs incurred as allowed by law. In addition, EPA reserves the right to undertake removal and/or remedial actions at any time that such actions are appropriate under the National Contingency Plan and to seek reimbursement for any costs incurred and/or take any other action authorized by law. EPA also reserves the right to issue additional administrative orders under any program it implements to ensure the health of persons using public and private water supplies in the vicinity of the Area of Interest.

51. EPA reserves the right to bring an action against Respondent for recovery of all recoverable costs incurred by the United States related to this Consent Order which are not reimbursed by Respondent, as well as any other costs incurred by the United States in connection with response actions conducted at the Site. Respondent reserves any rights it may have to defend or contest against such liability or the amount of costs.

52. This Emergency Order on Consent concerns certain response actions (described in Section IV, above) concerning the Area of Interest. Such response actions might not fully address all contamination at the Area of Interest. Subsequent response actions which may be deemed necessary by EPA are not addressed by this Emergency Order on Consent. EPA reserves all rights including, without limitation, the right to institute legal action against Respondent and/or any other parties in connection with the performance of any response actions not addressed by this Emergency Order on Consent.

53. Nothing in this Emergency Order on Consent shall limit the authority of any duly authorized representative of EPA outlined in the NCP and CERCLA, and other applicable statutes and regulations.

54. Respondent reserves its right to assert all legally available defenses, counterclaims and cross-claims with respect to any action or actions described herein, unless waived or limited herein and to challenge any findings of fact or conclusions herein other than in a proceeding to enforce this Order.

55. This Emergency Order on Consent may be executed in any number of counterpart originals, each of which shall be deemed to constitute an original order, and all of which shall constitute one or more. The execution of one counterpart by any party shall have the same force and effect as if that party had signed all other counterparts.

For the United States Environmental Protection Agency:

Date _____


Donald S. Welsh
Regional Administrator
United States Environmental Protection Agency, Region III

Sunbeam Products, Inc. Emergency Admin. Order on Consent, Docket No. SDWA-03-2003-01

For Respondent, Sunbeam Products, Inc.

Date: 9/30/03

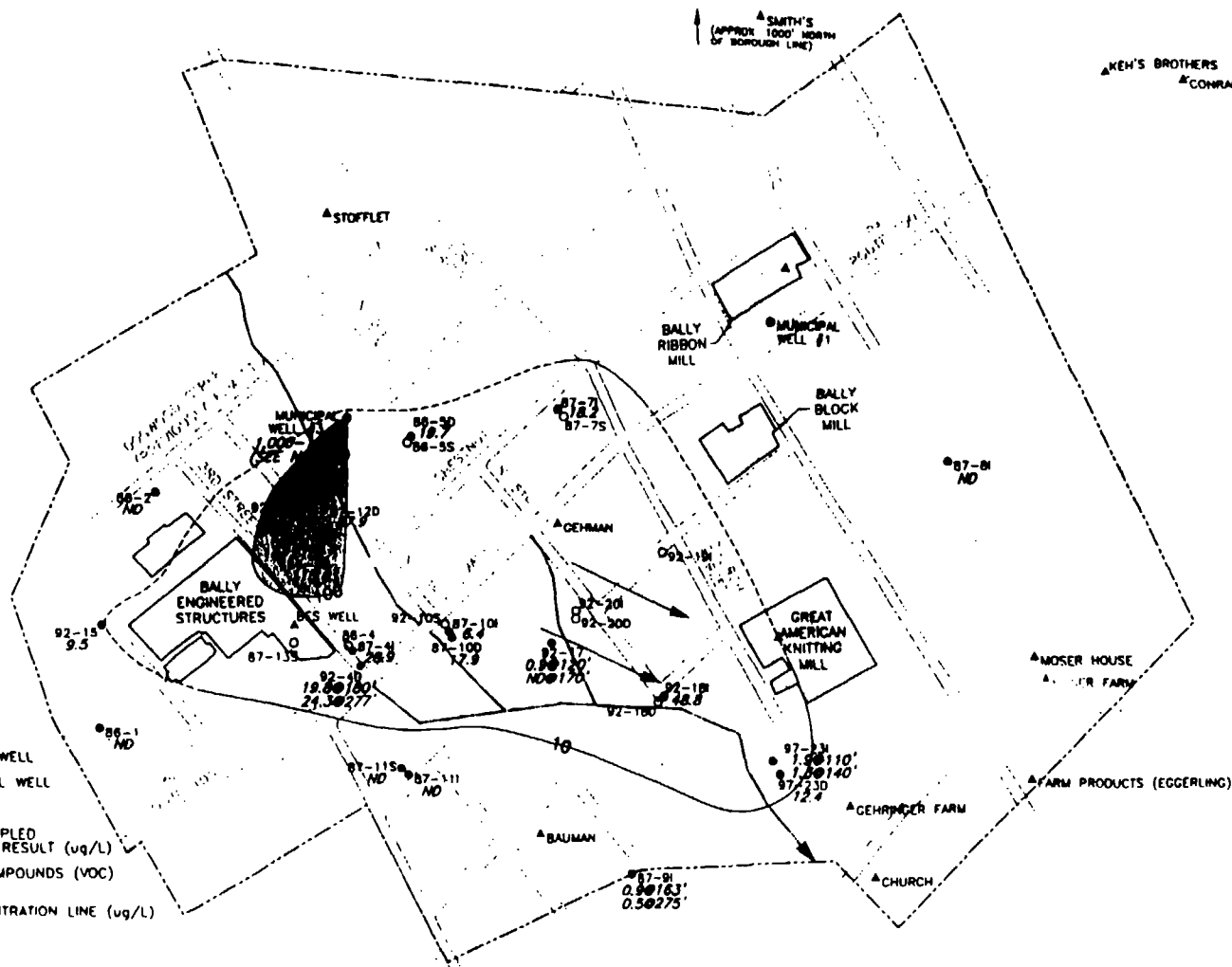
Vic Michas
Name Vic Michas
Title VP Legal

Attachment 1
Map of Ground Water Contamination Plume

AR200018

LEGEND

- STREAM
- EXISTING MONITORING WELL
- ▲ PRIVATE OR INDUSTRIAL WELL
- MUNICIPAL WELL
- MONITORING WELL SAMPLED IN MARCH 2003, AND RESULT (ug/L)
- ND VOLATILE ORGANIC COMPOUNDS (VOC) NOT DETECTED
- 10 — TOTAL VOC ISOCONCENTRATION LINE (ug/L) AND RESULT (ug/L)
- 10 - 99 ug/L
- 100 - 1000 ug/L
- GROUNDWATER FLOW DIRECTION (DEEP ZONE)



NOTES:

1. ALL CONCENTRATIONS IN ug/L
2. RANGE OF TOTAL VOC VALUES AT WELL No.3 BASED ON MONTHLY TESTING BY CEC, INC.
3. MONITORING WELLS 82-18 AND 82-18P WERE NOT LOCATED AND APPARENTLY NO LONGER EXIST.

0 500
SCALE 1"=500'

ARCADIS

3000 Cabot Blvd West
Suite 3004, Langhorne, Pa 19047
Tel: 215/752-6640 Fax: 215/752-6679



DATE 9/2/03	PROJECT MANAGER M. BEARD	DEPARTMENT MANAGER B. PLATON
ARCADIS MARCH 2003 MONITORING WELL SAMPLES TOTAL VOC CONCENTRATIONS	LEAD DESIGN PROJ F. LONZO	CHECKED CIS
	PROJECT NUMBER	DRAWING NUMBER

Attachment 2
Table of Monitoring Data

A. INITIAL MONITORING DATA

The following water samples were collected by an EPA contractor on February 25, 2003 from Municipal Well #3 of the Bally Borough water system.

Sample Number	Sample Location	Result (parts per billion of 1,4-dioxane)
MW-3A	From municipal well number #3, before air-stripping treatment	49.3
MW-3B	After first air-stripper tower (50% treatment)	52.2
MW-3C	After second air-stripper tower (100% treatment)	38.7
MW-3D	Post-chlorination	50.5
MW-3E	Duplicate of MW-3D	50.6

B. SUBSEQUENT MONITORING DATA

The following water sample results were submitted on behalf of the Respondent. The water samples were collected from the Bally Borough water system, after air-stripper treatment and chlorination at a point referred to as the "the blue tap".

Date	Result (parts per billion of 1,4-dioxane)
March 28, 2003	44
April 3, 2003	35
April 3, 2003 - duplicate	42
April 10, 2003	43
April 17, 2003	38
April 24, 2003	30
May 1, 2003	39
May 1, 2003 - duplicate	40
May 15, 2003	34

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May 29, 2003	40
June 12, 2003	35
June 20, 2003	25

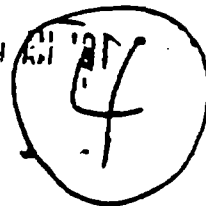
Attachment 3
QA/QC Plan Requirements Contained in Consent Decree

AR200022

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

U.S. DISTRICT COURT
U.S. DISTRICT

JUL 22 11 04 AM '91



UNITED STATES OF AMERICA,

Plaintiff,

v.

TEMRAC, Inc.,

and

SUNBEAM-OSTER COMPANY, Inc.

Defendants JUL 17 1991

Civil Action No.

91CV3043

FILED

FILED JUL 17 1991

CONSENT DECREE

WHEREAS, the United States of America, on behalf of the Administrator of the United States Environmental Protection Agency, filed a Complaint in this matter pursuant to Sections 106 and 107 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended, ("CERCLA"), 42 U.S.C. §§ 9606 and 9607, for response actions and reimbursement of response costs incurred or to be incurred by the United States (as hereinafter defined) through March 28, 1990 in response to a release or threat of release of hazardous substances from the Bally Groundwater Contamination Site (the "Site") (as hereinafter defined) in Berks County, Pennsylvania;

WHEREAS, the United States alleges, inter alia, that hazardous substances, as defined by Section 101(14) of CERCLA,

ENTERED: 7/18/91

CLERK OF COURT

AR200023

the NCP, 40 C.F.R. Part 300.

C. If the EPA Project Coordinator suspends the Work and the reasons are due to the acts or omissions of the Settling Defendants or acts or omissions of the Prime Contractor or subcontractors, then any extension of the schedule of completion shall be at EPA's discretion.

D. Minor technical modifications in the studies, techniques, procedures or designs utilized in carrying out this Consent Decree which are consistent with the objectives of this Decree, and necessary to the completion of the Work may be made by mutual agreement of the Project Coordinators. Such modifications shall be made by exchange of letters by the Project Coordinators agreeing to such changes and shall have as an effective date the date on which the letter from the EPA Project Coordinator is signed. The absence of the EPA Project Coordinator or his/her representatives from the Site shall not be cause for the stoppage of Work.

XI. QUALITY ASSURANCE

The Settling Defendants shall use Quality Assurance/Quality Control practices and procedures, including chain-of-custody procedures, in accordance with guidance provided in "EPA NEIC Policies and Procedures Manual", May 1978, revised May 1986, EPA-330/9-78-001-R, and "Interim Guidelines and Specifications for Preparing Quality Assurance Project Plans", February 1983, QAMS-005/80, while conducting all sample collection and analysis

activities required by this Consent Decree. The Settling Defendants shall consult with the EPA Project Coordinator in planning for, and prior to, all sampling and analysis required by the Work Plan, and subsequent EPA-approved plans prepared pursuant to this Consent Decree. In order to provide adequate Quality Assurance and Quality Control regarding all samples collected and analyzed pursuant to this Consent Decree, the Settling Defendants shall:

1. Use laboratories which have a documented Quality Assurance Program that complies with EPA guidance document QAMS-005/80;

2. Ensure that United States personnel and/or United States authorized representatives are allowed reasonable access to laboratories, records and personnel utilized by the Settling Defendants for analysis of samples collected pursuant to this Consent Decree;

3. Submit a Quality Assurance and Quality Control Plan ("QA/QC" Plan) for the collection, transportation, analysis and reporting to be conducted pursuant to this Consent Decree. The QA/QC Plan will be submitted to the EPA Project Coordinator for review and approval in accordance with the schedule to be included in the Work Plan and prior to initiating any respective field investigations to be described in the respective QA/QC Plan. The plan shall specify, in detail, the data quality objectives, the number, time and location of soil, air, surface water and ground water or other samples to be taken, sample

collection and transportation procedures, data analysis methods, and validation and reporting procedures. Said objectives, procedures and methods shall be consistent with the ROD, Work Plan, EPA NEIC Policies and Procedures Manual, QAMS-005/80, and other appropriate EPA guidance;

4. Ensure, except where otherwise specified in EPA-approved plans prepared pursuant to this Consent Decree, that any laboratories analyzing samples required by this Consent Decree shall use the methods and submit deliverables as delineated in the current "Statement of Work of the EPA Contract Lab Program ("CLP")." All constituents and physical parameters to be analyzed for which CLP methods will not be used shall be described in detail in the appropriate QA/QC Plan and approved by the EPA Project Coordinator prior to conduct of all sampling and analysis;

5. Ensure that any laboratories analyzing samples pursuant to this Consent Decree demonstrate its capability to perform analyses in compliance with CLP requirements through the periodic analysis of Performance Evaluation ("PE") samples. EPA may waive this requirement to satisfactorily analyze PE samples provided the laboratory has analyzed PE samples submitted by EPA or a state agency within the last six (6) months. Documentation of prior PE analyses must be submitted to the EPA Project Coordinator for verification in accordance with the schedule to be included in the Work Plan;

6. Conduct an appropriate number of field audits, to

be described in the QA/QC Plan, to verify that sampling is being performed according to the QA/QC Plan. The Settling Defendants shall submit a report to the EPA Project Coordinator within fifteen (15) days of completion of each audit. The Settling Defendants shall report deficiencies in implementation of the QA/QC Plan and propose corrective actions within twenty-four (24) hours of the time the Settling Defendants or any contractor or subcontractor discover any deficiency. The Settling Defendants shall take immediate action to correct any deficiency;

7. Conduct, in accordance with the QA/QC Plan, an approximate number of audits of any laboratories that will analyze samples from the Site at a frequency to be specified in the Work Plan during the time the laboratories are conducting analyses. The audits will be conducted to verify analytical capability. Audit reports will be submitted to the EPA Project Coordinator within fifteen days of completion of each audit. The Settling Defendants shall report deficiencies within twenty-four (24) hours of the time the Settling Defendants discover the deficiency. The Settling Defendants shall make best efforts to take corrective actions immediately. CLP laboratory auditing forms can be used as a guidance to identify such deficiencies. Laboratories which are CLP Labs need not be audited if the CLP procedures are employed by the laboratories: and

8. Provide data validation of analyses performed by any laboratories in accordance with the "Functional Guidelines for Data Review" for data derived by CLP methods, or if another

method is used, in accordance with the QA/QC data validation criteria set forth in that method. For methods lacking QA/QC data validation protocols the Settling Defendants shall establish validation criteria such as those in Section 8 of the EPA Series Methods in 40 C.F.R. Part 136. The Settling Defendants shall submit the appropriate quality assurance data validation summary reports, along with sample data and summary sheets, to the EPA Project Coordinator in accordance with reporting requirements to be described in the Work Plan and any other relevant plan.

XII. ACCESS

A. From the date of entry of this Consent Decree until EPA certifies completion of the Work pursuant to Section XXIII, the United States and its representatives, including EPA and its contractors, shall have access at all times to the Site and any property to which access is required for the implementation of this Consent Decree, to the extent access to any such property is controlled by or available to Settling Defendants, for the purpose of, among other things, conducting any activity authorized by or related to this Consent Decree, including, but not limited to:

1. Monitoring the Work or any other activities taking place on the property;
2. Verifying any data or information submitted to the United States;

***Instructions to Bally Water System Customers for
Establishing Temporary Bottled Drinking Water
Delivery Service***

- Bottled drinking water has been offered to the customers of the Bally Borough water system free of charge by American Household, Inc. on a temporary basis. This is a voluntary program. Bally Borough Water System customers are under no obligation to accept this service. This offer also applies to residences of Washington Township that are customers of the Bally Borough Water System.
- If you wish to establish delivery of bottled drinking water to your home, call Deer Park at (800) 950-9907. You will enter into a service agreement with Deer Park, but the cost of this service will be paid by American Household, Inc.
- On your initial set up, you will receive 4 five-gallon bottles of Deer Park Spring Water and one room temperature dispenser. The initial delivery of the dispenser and bottles will take place seven to ten days after Deer Park receives your contract.
- Deer Park will provide a delivery calendar explaining the delivery schedule. Replenishment of water by Deer Park will occur approximately once every three weeks.
- On your delivery day please leave your empty bottles in a designated area and Deer Park will replace them with full bottles.
- You will not be charged for the water or dispenser.
- To the extent that businesses have drinking water needs, please contact the Bally Borough Manager, Toni Hemerka at (610) 845-2351.